



## Child Fatality Report Release of Information to the Public

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**Person ID:** 60315205

**County of Child's Residence:** GALVESTON

**Gender:** Male

**Age:** 9 Year(s) 2 Month(s)

**Date of Death:** 12/30/2018

On the date of the fatal injury, the child was not in DFPS conservatorship and was living with the child's parent, a managing conservator, a legal guardian or other person entitled to the child's possession.

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**Child's Name:** Martinez, Kalon M

**Current Report(s) of Abuse/Neglect:**

**Intake Date(s):** December 31, 2018

**Summary of Allegation(s)/Investigation:**

A report was received that the deceased child was found face down on his bed in the morning by the home health caregiver of the child. The deceased child had a DNR order. The deceased child was last fed around 9:30 p.m. on the day before by the deceased child's adoptive mother. The deceased child was injured by the deceased child's biological mother in 2009 and in 2013. The deceased child had treatment at the hospital for fractures and brain injury in 2009. The deceased child's death was a result of the previous physical abuse by deceased child's biological mother.

**Investigation Findings:**

During the investigation, it was determined that this case would not be investigated as the allegations were already investigated in 2009 and this incident led to the deceased child's death. The child's death was not caused by or attributed to the adoptive mother or the home health caregiver.

A law enforcement investigation regarding the earlier injuries to the child is pending. The autopsy revealed that the deceased child died as a result of complications of traumatic brain injury that occurred in 2009.

The allegation of physical abuse of the deceased child by the deceased child's adoptive mother is not confirmed. The case was administratively closed because the allegations were already investigated in 2009 and it is the 2009 injury that led to the deceased child's death.

**Safety and Risk Assessment Factors Identified:**

Safety and Risk Assessment Factors Identified:  
None required by policy.

**Case Action:**

Administrative Closure

**Services and Referrals Provided to the Family:**

None

**Other Services:**

**Other Actions Taken to Mitigate Risk:**

None

**If one or more children were previously removed from the home, for each conservatorship episode, summarize dates of conservatorship and type of placement at the end of conservatorship:**

**Previous Report of Abuse/Neglect:**

**Intake Date(s):** January 8, 2013

**Summary of Previous Allegation(s)/Investigation:**

A report was received that the deceased child's mother told the child's school that the deceased child sprained his leg over the weekend. The deceased child was crying and it appeared to school officials that the deceased child's leg is broken. The mother explained that the child injured his leg while playing. The child is unable to walk and thus, the mother's explanation is suspect. A subsequent report was received alleging the child had broken bones in his right leg. The child's father was unaware of the injuries and had no explanation of what happened to the child.

**Investigation Findings:**

Upon investigation it was determined that the deceased child sustained a spiral fracture to his right leg, which is indicative of abuse. The child is not ambulatory because of his earlier brain injuries and thus could not have sustained the fracture as a result of playing. Neither the mother nor the father had an explanation for the fracture or an explanation of why they didn't seek medical care for the child when he was crying and it was clear that his leg was injured. The father, who was the permanent managing conservator of the child, had left the child in the sole care of the mother on multiple occasions. The father was no longer protective of the child.

Law enforcement did investigate, but it was unclear if any charges were filed at the time the CPS case was closed.

The allegations of medical neglect of the deceased child by the mother and father were confirmed. They did not seek medical treatment for the child's broken leg. The allegations of neglectful supervision and physical abuse of the deceased child by the mother were confirmed. The child was under the sole care of the mother when his leg was broken in a spiral pattern, which is indicative of abuse.

**Safety and Risk Assessment Factors Identified:**

Safety and Risk Assessment Factors Identified:

Safety Assessment / Not Safe

SDM Risk Assessment Final Risk Level: The medical evidence shows that the deceased child sustained a spiral fracture to his left leg. The deceased child's mother and father didn't provide an explanation of injury. The department sought temporary managing conservatorship of the deceased child.

**Case Action:**

Removal/Subcare

**Services and Referrals Provided to the Family:**

Conservatorship services were provided.

**Other Services:**

None

**Other Actions Taken to Mitigate Risk:**

The department sought temporary managing conservatorship of the deceased child and he was placed in foster care to care for his multiple medical issues. The parental rights of the mother and father were later terminated and the child was adopted the following year.

## **Previous Report of Abuse/Neglect:**

**Intake Date(s):** March 28, 2012

## **Summary of Previous Allegation(s)/Investigation:**

A report was received that the deceased child's father stated that since the entry of the final order in the 2009 CPS case, he has married the deceased child's mother and resides with the deceased child's mother in the same home as the deceased child and a new sibling. This indicates that the deceased child's mother has unsupervised access to the deceased child. The mother was court-ordered to always be supervised with the deceased child.

## **Investigation Findings:**

During the investigation, the deceased child's mother stated that she is never left alone with the deceased child even when bathing. There are always two people there since the 2009 incident. The deceased child's father stated he believes that the mother is innocent of causing the child's injuries. He stated he has followed the court order, which was that the mother is not to be alone with the child and the new sibling. The deceased child's paternal great grandmother stated that there were no concerns in the home with abuse or neglect. She stated the deceased child's mother is never left alone with the deceased child.

On 09/24/2012, the deceased child's mother was convicted of felony injury to a child causing serious bodily injury to a child. The deceased child's mother pleaded to a lesser felony charge, reckless serious bodily injury, and was given deferred adjudication and a 10-year term of probation.

The allegations of neglectful supervision and physical abuse of the deceased child by the mother and father could not be determined. There was insufficient evidence to make a determination. The deceased child's mother, father and grandparents report that the mother is never alone with the deceased child.

## **Safety and Risk Assessment Factors Identified:**

Safety Assessment/Safe with Plan

SDM Risk Assessment Final Risk Level: The deceased child's family was referred to Family Based Safety Services for services.

## **Case Action:**

Family Based Safety Services

## **Services and Referrals Provided to the Family:**

The deceased child's family was referred to Family Based Safety Services for services.

## **Other Services:**

## **Other Actions Taken to Mitigate Risk:**

The risk was mitigated because the deceased child's mother has been placed on criminal probation and the home will be monitored by her probation officer twice a month. The department's Early Childhood Intervention program is also involved with the deceased child and family.

## **Previous Report of Abuse/Neglect:**

**Intake Date(s):** May 16, 2011

## **Summary of Previous Allegation(s)/Investigation:**

A report was received that the deceased child is losing weight rather than gaining weight. The deceased child's mother has missed two scheduled feeding appointments for the child with no reason given for missing the scheduled appointments. The CPS safety plan required that the deceased child's mother is not allowed to have unsupervised time with deceased child, and it is believed that she is becoming the sole caregiver for the deceased child.

## **Investigation Findings:**

During the investigation, the deceased child's father stated that the deceased child went to the doctor recently. The father stated that for the past six months the deceased child has not been eating properly and losing weight. He stated that the department's Early Child Intervention (ECI) program visits with the deceased child about three times a week. The father stated that the mother is never alone with the deceased child. The deceased child's paternal grandmother stated that the deceased child was having a problem and was losing weight. She stated that the deceased child did not know how to swallow and that a dietician has been working with them. The mother stated that the deceased child does not live with her and she only has supervised visits with him. The mother was concerned about the deceased child not gaining weight. The mother reported that the father is the one that forgets the deceased child's medical appointments. The child's physical therapist reported that she works on mobility skills with the deceased child. The dietician stated that since she has been working with the child, he has gained one pound and grown three inches.

The allegations of medical neglect, neglectful supervision and physical neglect of the deceased child by the deceased child's mother and father are not confirmed. The deceased child is being monitored by the Early Childhood Intervention program and no concerns were reported. The deceased child lives with the deceased child's father and the paternal grandmother, who are protective of the deceased child.

## **Safety and Risk Assessment Factors Identified:**

Safety Assessment: Safe- The deceased child was examined by medical professionals and they had no concerns, and ECI is working with the deceased child and his family.

SDM Risk Assessment Final Risk Level: None

## **Case Action:**

Close

## **Services and Referrals Provided to the Family:**

## **Other Services:**

The deceased child's family is utilizing community services resources.

## **Other Actions Taken to Mitigate Risk:**

The child's family is utilizing community services resources and the ECI program visits about three times a week.

## **Previous Report of Abuse/Neglect:**

**Intake Date(s):** October 30, 2009 and October 31, 2009

## **Summary of Previous Allegation(s)/Investigation:**

A report was received that the deceased child's mother and father brought the 22 day old deceased child to the hospital two days earlier because of an incident that happened when the mother was giving the child a bath. It was reported that the mother was bathing the child, picked him up to put him in a towel and dropped the child as she was turning from the tub. The deceased child has bilateral subdural hematomas in his brain and two bilateral skull fractures, which might be consistent with the incident the mother described. However; the child also has healing left posterior rib fractures in his 5th and 6th rib bones and irregularity of the femoral metaphyses. The deceased child has traumatic brain injury and will have an unknown level of permanent brain damage.

A subsequent report was received that the deceased child was seen in the hospital for skull fracture, old healed fractures; a fractured rib and knee and retinal hemorrhages. It was reported that the mother picked up the child and dropped him on the tile floor resulting in a skull fracture.

## **Investigation Findings:**

During the investigation, the deceased child's mother stated that she put the deceased child's bath tub inside the bathtub. After giving the child a bath, she picked up the child and put a towel on him. As she was wrapping the towel around him, she was turning away from the tub and essentially slung the child onto the tile floor as she lost her grasp on the wet child. The father was not home when the incident happened.

Medical professionals reported that the child will have some trouble learning and he may have Cerebral Palsy. The deceased child had significant loss of oxygen, serious injury to the brain, had a seizure and several strokes in back part and front part of the brain. The deceased child's injuries are from non-accidental trauma, because the deceased child's skull fractures are large and their locations are at different levels of the skull. Medical professionals determined that the child could not have received all these injuries from being dropped after the bath.

Law enforcement did investigate the incidents. The mother was convicted of criminal charges, but sentenced to probation.

The Department of Family and Protective Services was granted temporary managing conservatorship of the deceased child.

The allegations of physical abuse of the deceased child by the deceased child's mother and father are confirmed. The child not only sustained skull fractures and other brain injuries, but the child also had healing fractures in his ribs and in his femurs at the knee.

## **Safety and Risk Assessment Factors Identified:**

Safety Assessment / Not Safe

SDM Risk Assessment Final Risk Level: The deceased child was removed from home.

## **Case Action:**

Removal

## **Services and Referrals Provided to the Family:**

The family was offered services.

## **Other Services:**

## **Other Actions Taken to Mitigate Risk:**

The risk was mitigated because the deceased child was placed in foster care. The deceased child's father was eventually granted permanent managing conservatorship of the deceased child.

Note: This report was prepared on 07/25/2019 and does not include corrections or updates, if any, that may be subsequently made to DFPS data on or after the date